

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN JUAN UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010050862

ORDER GRANTING MOTION TO
CHANGE VENUE

Parent on behalf of Student (Student) filed a request for a due process hearing on May 2, 2010. This matter is set for hearing on March 1 through 3, 7, and 8, 2011, at the District's offices, located at 4825 Kenneth Avenue, Carmichael, California.

On January 11, 2011, Student filed a motion to change the hearing location from the District's offices to the Office of Administrative Hearings (OAH) facilities, located at 2349 Gateway Oaks Drive, Sacramento, California. On January 12, 2011, the District filed a reply opposing Student's motion.

APPLICABLE LAW

Due process hearings "shall be held at a time and place reasonably convenient to the parent or guardian and the child involved." (Ed. Code, § 56505, subd. (b); 34 C.F.R. 300.515(d).) "Reasonably convenient" does not mean that the hearing may be located anywhere a parent chooses. Due process hearings are generally scheduled in the offices of the school district as the pupil generally resides within the district's coverage area. If the parent requests an alternative location that appears reasonably convenient, the district may show prejudice and the equities may be weighed. Due process hearings must be fair and conducted so that the parties can exercise their rights as provided for by law. (Ed. Code § 56505(c) & (e).)

DISCUSSION

Student's motion to change the hearing venue from the District offices in Carmichael to OAH in Sacramento asserts that the OAH venue "would provide a neutral and balanced forum acceptable to Parent," and that the OAH facilities are "only 14 miles from the school district's office...." Secondly, Student represents in his motion that OAH would be a

“practical and convenient location” for Student’s witnesses who live and work in the Sacramento area.” Student’s motion is not supported by any detailed information or evidence.¹ Student raises concerns regarding the neutrality of the hearing venue and convenience to his witnesses, and has established that the OAH venue is reasonably convenient for Student and Parent.

District’s opposition is supported by a declaration under penalty of perjury from the attorney for the District, which merely attaches Internet MapQuest printouts showing purported distances involved from Student’s home address in Carmichael to the District’s offices (8.27 miles or about 17 minutes), and from Student’s home to OAH (17.22 miles or about 22 minutes). In addition, District represents that “the majority” of its witnesses will be District teachers and employees who “work close to” the District venue. District’s opposition is likewise unsupported by detailed evidence. District’s concerns regarding its witnesses do not establish that the modest travel time and distance involved from Carmichael to Sacramento would be unduly burdensome or prejudicial.

There do not appear to be any great distances or travel times involved for either party. Weighing the equities in these circumstances, the Sacramento OAH facilities are determined to be reasonably convenient to Parent and Student. For these reasons, Student’s request that the due process hearing be conducted at the OAH offices in Sacramento is granted.

ORDER

Student’s request for change of venue to OAH in Sacramento is granted. The hearing in this case shall be convened as currently scheduled at the Sacramento OAH offices.

Dated: January 19, 2011

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ In the future, counsel for both parties should consider submitting substantive, detailed evidence to support or oppose the motion. In this case, the Administrative Law Judge accepts the representations of both parties as there are no great distances involved between the venues.